

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

THOMAS E. BACKMAN,

CV No. 06-1845-BR

Petitioner,

~~Proposed~~

v.

BRIAN BELLEQUE, as Superintendent,
Oregon State Penitentiary,

**ORDER GRANTING UNOPPOSED
MOTION TO VOLUNTARILY
DISMISS HABEAS PETITION**

Respondent.

This matter has come before the court on the motion of petitioner, Thomas Backman, to voluntarily dismiss his habeas petition with leave to re-open in the event that the ruling in *Blakely v. Washington*, 542 U.S. 296 (2004), is ever deemed retroactive to cases on collateral review. Finding good cause exists to grant that motion it is hereby:

ORDERED that the petition for writ of habeas corpus filed in this matter is dismissed without prejudice. In the event that the decision in *Blakely v. Washington* is ever deemed retroactive and applicable to cases on collateral, Petitioner is granted 60 days from such a ruling to move to reopen this case to raise any *Blakely*-based issues, and may amend his petition to assert any and all such claims. The statute of limitations period applicable to the *Blakely*-based claims will be deemed tolled from the date of the filing of the petitioner's original petition to the date 60 days after the decision rendering *Blakely* retroactive. If the action is reopened, Respondent may assert any procedural defenses that were available when this Order issued.

Issued this 11th day of October, 2007.



The Honorable Anna J. Brown
United States District Court Judge

Submitted by:

/s/ C. Renée Manes
C. Renée Manes
Attorney for Defendant